

REMARKS

In the Office Action mailed on July 12, 2005, the Title was objected to, claims 1, 2, 6 and 8 were rejected under 35 U.S.C. 102(e) as being anticipated by Parker (U.S. Patent No. 6,603,755). This rejection is respectively traversed.

In accordance with the foregoing, claims 1, 2 and 6 are amended for clarification purposes. Support for claim amendments can be found at FIG. 5 and pages 11 and 12 of the specification.

The Title has been amended to recite "COMMUNICATION DEVICE, AND METHOD OF COMMUNICATION BETWEEN COMMUNICATION DEVICES AND MEDIUM THEREOF"

Claims 1, 2, 6 and 8 are pending in the subject application, of which claims 1, 2 and 6 are independent.

The Applicant respectfully submits that Parker fails to disclose "measuring a communication performance between a plurality of communication devices connected to a network, by measuring a communication time of each of the communication modes of one of the communication devices under a plurality of communication conditions," as recited in amended claim 1.

Instead, Parker discloses a method of allowing multiple communication modes to be surveyed by a multimode mobile terminal for the purpose of locating a suitable communication service provider (see column 7, lines 5-40). Further, in FIG. 7, Parker discloses "a service selection program" selects a primary communication mode to use for establishing service. That is, the service selection program uses a table in which communication modes are assigned a rank from one to n (see FIG. 8), thereby allowing the multimode mobile terminal to update the communication mode ranking to adapt to changing conditions.

Further, Parker discloses determining a communication mode based on a rank of service providers (step 96 of FIG. 7). As discussed in column 8, lines 13-27 of Parker, the service selection program determined whether the preference level of the highest classified service provider for the currently selected mode is suitable to allow service to be acquired from the service provider by comparing the preference level with an adjustable threshold to determine whether the preference level is above or below the threshold. The adjustable threshold is set for example, between the Class C and Class D preference level. Therefore, only those service providers which have an TIA/EIA -136 classification label of Home or Partner, would be suitable

service providers from which service may be obtained. Further, in Parker, the rate of communication of each of the communication modes is not measured. Instead, the rate of communication of each mode is set, and therefore, the communication rate for each service provider is also set.

Parker also fails to discuss those limitations recited in claims 2 and 6 which are similar to the limitations as recited in claim 1.

In addition, claim 8 includes patentably distinguishable features of its own. For example, claim 8 recites "said performance measuring module measures the communication performance...with other communications device if not stored with the condition-based optimum communication mode in communications with said other communications device...".

Withdrawal of the foregoing rejections is respectfully requested.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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